

Notice of Allowability

Application No.
09/963,333

Applicant(s)
Stanton

Examiner
Arun Chakrabarti

Art Unit
1634



--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/9/03.
2. ☒ The allowed claim(s) is/are 27, 38, and 49.
3. ☒ The drawings filed on Sep 24, 2001 are accepted by the Examiner.
4. ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- *Certified copies not received: _____.
5. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment/Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the top margin (not the back) of each sheet. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 2 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 4 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>0503</u> |
| 5 <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449), Paper No(s). _____ | 6 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 7 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| 9 <input type="checkbox"/> Other | |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CAR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Anita Meiklejohn on May 1, 2003.

The application has been amended as follows:

Non-elected claims have been canceled without prejudice towards further prosecution.

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance: In view of the amendment, the present invention is directed to a method comprising:

a) providing a sample comprising nucleic acid molecules present in a biological sample obtained from a patient;

b) contacting the sample with either a probe comprising at least 15 contiguous nucleotides of the nucleotide sequence of SEQ ID No: 1, the probe comprising at least one of:

(i) nucleotide 1066 wherein N is C;

(ii) nucleotide 1136 wherein N is G;

(iii) nucleotide 1497 wherein N is A;

or the complement thereof; and probes comprising of several single nucleotide polymorphism of

SEQ ID Nos: 2 and 3 as claimed in claims 38 and 49; and

c) determining if the sample comprises a nucleic acid molecule that hybridizes to the probe

Although Billing-Medel et al. (U.S. Patent 6,130,043) (October 10, 2000) teaches a method comprising:

a) providing a sample comprising nucleic acid molecules present in a biological sample obtained from a patient;

b) contacting the sample with either a probe comprising at least 15 contiguous nucleotides of the nucleotide sequence; and

c) determining if the sample comprises a nucleic acid molecule that hybridizes to the probe,

Billing-Medel et al does not teach a probe comprising at least 15 contiguous nucleotides of the nucleotide sequence of SEQ ID No: 1, the probe comprising at least one of:

(I) nucleotide 1066 wherein N is C;

(ii) nucleotide 1136 wherein N is G;

(iii) nucleotide 1497 wherein N is A;

or the complement thereof; and probes comprising of several single nucleotide polymorphism of SEQ ID Nos: 2 and 3 as claimed in claims 38 and 49.

In view of the absence of either teaching or suggestion of such a probe comprising at least 15 contiguous nucleotides of the nucleotide sequence of SEQ ID No: 1, the probe comprising at least one of:

(I) nucleotide 1066 wherein N is C;

(ii) nucleotide 1136 wherein N is G;


(iii) nucleotide 1497 wherein N is A;
or the complement thereof; and probes comprising of several single nucleotide polymorphism of
SEQ ID Nos: 2 and 3 as claimed in claims 38 and 49, the present invention is novel and non-
obvious.

Any comments considered necessary by applicant must be submitted no later than
the payment of the issue fee and, to avoid processing delays, should preferably accompany the
issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for
Allowance."

Conclusion

2. Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Arun Chakrabarti , Ph.D., whose telephone number is (703)
306-5818. The examiner can normally be reached on 7:00 AM-4:30 PM from Monday to
Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Gary Benzion, can be reached on (703) 308-1119. The fax phone number for this
Group is (703) 746-4979. Any inquiry of a general nature or relating to the status of this
application or proceeding should be directed to the Group analyst Chantae Dessau whose
telephone number is (703) 605-1237.

Arun Chakrabarti,
Patent Examiner,
May 6, 2003


GARY BENZION, PH.D
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600